

AMENDED IN ASSEMBLY MAY 15, 2013

AMENDED IN ASSEMBLY MAY 2, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 296

Introduced by Assembly Member Wagner

February 11, 2013

An act to amend Section 6062 of the Business and Professions Code, relating to attorneys.

LEGISLATIVE COUNSEL'S DIGEST

AB 296, as amended, Wagner. Attorneys.

Existing law, the State Bar Act, provides for the licensure and regulation of attorneys by the State Bar of California, a public corporation. Existing law requires, among other requirements, that an individual who has been admitted to practice law in a sister state, United States jurisdiction, possession, territory, or dependency the United States may acquire, pass the general bar examination, or Attorneys' Examination, as specified, to be certified to the Supreme Court for admission, and a license to practice law. Existing law requires an individual who has been admitted to practice law in a jurisdiction other than a sister state, United States jurisdiction, possession, or territory, to have passed the general bar examination, as specified, among other requirements.

This bill would authorize a person who ~~has been~~ *is* an active member in good standing of the bar of a sister state or United States jurisdiction, possession, or territory ~~and who is married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States who is assigned to a duty station in~~

~~the state, as specified, to apply to receive a provisional license to practice law in the state. The bill would provide that the provisional license confers all the same rights, benefits, duties, and responsibilities to practice law as a regular license, except as provided. The bill would require an applicant for a provisional license to meet certain requirements, including, among other things, being at least 18 years of age and of good moral character and would require the State Bar to expedite all moral character investigations or proceedings for provisional license applicants. The bill would require a provisional licenseholder, as a condition of provisional licensure, to (1) take the first general bar examination or Attorneys' Examination administered at least 90 calendar days after his or her moral character determination application is submitted to the State Bar, as specified, (2) associate with an active member of the State Bar, and (3) disclose his or her provisional licensure in any contract for legal services. The bill would provide that failure to comply these conditions shall be grounds to revoke the provisional license. The bill would provide for the expiration of a provisional license under certain conditions, but would, notwithstanding these conditions, only authorize a provisional license to be valid while the active duty member of the Armed Forces is assigned a duty station in California under official active duty military orders. to apply and be eligible to be certified to the Supreme Court for provisional admission and to receive a provisional license to practice law in California if the applicant meets certain requirements, including, among others, supplying evidence satisfactory to the State Bar that he or she is married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States who is assigned to a duty station in California under official active duty military orders. The bill would require an applicant for a provisional license or a provisional licenseholder to take the first general bar examination or Attorneys' Examination, as specified, administered after the date the active duty member must report to a duty station in the state, except as provided. The bill would require the provisional licenseholder to abide by all the laws, rules, and regulations that govern fully licensed members of the State Bar and would also subject him or her to the same duties, responsibilities, and obligations and confer the same rights and benefits, as fully licensed members of the State Bar, except as provided. The bill would subject the provisional licenseholder to certain disclosure requirements and would authorize him or her to practice law in California only under the supervision of an attorney who is an active~~

member in good standing of the State Bar of California. The bill would provide for the automatic and immediate termination of the provisional license under specified circumstances.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 6062 of the Business and Professions
2 Code is amended to read:

3 6062. (a) To be certified to the Supreme Court for admission,
4 and a license to practice law, a person who has been admitted to
5 practice law in a sister state, United States jurisdiction, possession,
6 territory, or dependency the United States may hereafter acquire,
7 shall:

8 (1) Be at least 18 years of age.

9 (2) Be of good moral character.

10 (3) Have passed the general bar examination given by the
11 examining committee. However, if that person has been an active
12 member in good standing of the bar of the admitting sister state
13 or United States jurisdiction, possession, or territory for at least
14 four years immediately preceding the first day of the examination
15 applied for, he or she may elect to take the Attorneys' Examination
16 rather than the general bar examination. Attorneys admitted less
17 than four years and attorneys admitted four years or more in another
18 jurisdiction but who have not been active members in good
19 standing of their admitting jurisdiction for at least four years
20 immediately preceding the first day of the examination applied for
21 must take the general bar examination administered to general
22 applicants not admitted as attorneys in other jurisdictions.

23 (4) Have passed an examination in professional responsibility
24 or legal ethics as the examining committee may prescribe.

25 (b) ~~(1) A person who has been~~ is an active member in good
26 standing of the bar of an admitting sister state or United States
27 jurisdiction, possession, or territory ~~who is married to, or in a~~
28 ~~domestic partnership or other legal union with, an active duty~~
29 ~~member of the Armed Forces of the United States who is assigned~~
30 ~~to a duty station in California under official active duty military~~
31 ~~orders, may apply to receive a provisional license to practice law~~
32 ~~in California, which shall confer all of the same rights, benefits,~~

1 duties, and responsibilities as a license to practice law in California,
2 except as provided in this subdivision. A provisional license to
3 practice law shall be granted to an applicant who meets the
4 following requirements: *may apply and shall be eligible to be*
5 *certified to the Supreme Court for provisional admission, and to*
6 *receive a provisional license to practice law in California, if the*
7 *applicant meets all of the following requirements:*

8 (A)

9 (1) Is at least 18 years of age.

10 (B) ~~Is of good moral character.~~

11 (2) *Files an Application for Determination of Moral Character*
12 *with the State Bar of California and is determined to be of good*
13 *moral character.*

14 (C)

15 (3) Has passed an examination in professional responsibility or
16 legal ethics as the examining committee may prescribe.

17 (D)

18 (4) Supplies evidence satisfactory to the State Bar that he or she
19 is married to, or in a domestic partnership or other legal union
20 with, an active duty member of the Armed Forces of the United
21 States who is assigned to a duty station in California under official
22 active duty military orders.

23 (E) ~~Holds a current license to practice law in another state,~~
24 ~~district, or territory of the United States.~~

25 (5) *Establishes that he or she is an active member in good*
26 *standing entitled to practice law in another state, United States*
27 *jurisdiction, possession, or territory.*

28 (F)

29 (6) Establishes that he or she ~~is not currently~~ *has never been*
30 *subject to lawyer discipline or and is not* the subject of a pending
31 disciplinary matter in any jurisdiction.

32 (G) ~~Pays annual bar membership dues.~~

33 (H) ~~Complies with all ethical, legal, and continuing legal~~
34 ~~education obligations.~~

35 (2) ~~The State Bar shall expedite all moral character~~
36 ~~investigations or proceedings for provisional license applicants.~~

37 (3) ~~A provisional licenseholder shall, as a condition of~~
38 ~~provisional licensure, comply with all of the following:~~

39 (A) ~~Take the first general bar examination or Attorneys'~~
40 ~~Examination administered at least 90 calendar days after his or~~

1 her moral character determination application is submitted to the
2 State Bar. A provisional licensesholder who has been an active
3 member of an admitting sister state or United States jurisdiction,
4 possession, or territory for less than four years immediately
5 preceding the first day of the examination applied for must take
6 the general bar examination administered to general applicants not
7 admitted as attorneys in other jurisdictions. A provisional
8 licensesholder who has been an active member in good standing of
9 the bar of the admitting sister state or United States jurisdiction,
10 possession, or territory for at least four years immediately
11 preceding the first day of the examination applied for may elect
12 to take the Attorneys' Examination rather than the general bar
13 examination.

14 (B) Associate with an active member of the State Bar.

15 (C) Disclose his or her provisional licensure in any contract for
16 legal services.

17 Failure to comply with this paragraph shall be grounds for
18 revocation of the provisional license.

19 (4) If the provisional licensesholder does not pass the general
20 bar examination or Attorneys' Examination taken pursuant to
21 subparagraph (A) of paragraph (3), the provisional license shall
22 expire on the date the examination results become available. If the
23 provisional licensesholder passes the general bar examination or
24 Attorneys' Examination, the provisional license shall expire on
25 the date the provisional licensesholder takes the oath of admission.
26 Notwithstanding these provisions or any other law, a provisional
27 license shall only be valid while the active duty member of the
28 Armed Forces is assigned a duty station in California under official
29 active duty military orders.

30 (c) (1) An applicant for a provisional license or a provisional
31 licensesholder as described in subdivision (b) shall apply for and
32 take the general bar examination administered by the examining
33 committee, except as provided in paragraph (2).

34 (2) An applicant or provisional licensesholder who meets the
35 requirements to take the Attorneys' Examination as specified in
36 paragraph (3) of subdivision (a) may elect to apply for and take
37 the Attorneys' Examination rather than the general bar
38 examination.

39 (3) An applicant or provisional licensesholder shall apply for
40 and take the general bar examination or Attorneys' Examination

1 pursuant to paragraphs (1) and (2), in compliance with the
2 following:

3 (A) Except as provided in subparagraphs (B) and (C), an
4 applicant or provisional licenseholder shall apply for and take the
5 first general bar examination or Attorneys' Examination
6 administered after the date the active duty member of the Armed
7 Forces of the United States must report to a duty station in
8 California under official active duty military orders.

9 (B) If the general bar examination or Attorneys' Examination
10 is administered less than 90 days after the date the active duty
11 member of the Armed Forces of the United States must report to
12 a duty station in California under official active duty military
13 orders, the applicant or provisional licenseholder shall apply for
14 and take one of the following:

15 (i) The first general bar examination or Attorneys' Examination
16 administered after the date the active duty member of the Armed
17 Forces of the United States must report to a duty station in
18 California under official active duty military orders.

19 (ii) The first general bar examination or Attorneys' Examination
20 administered after the examination described in clause (i).

21 (C) If the active duty member of the Armed Forces of the United
22 States reported to a duty station in California under official active
23 duty military orders before January 1, 2014, the applicant or
24 provisional licenseholder shall apply for and take the general bar
25 examination or Attorneys' Examination no later than July 2014.

26 (d) A provisional licenseholder shall abide by all of the laws,
27 rules, and regulations that govern fully licensed members of the
28 State Bar of California, including payment of annual bar
29 membership dues and compliance with the Minimum Continuing
30 Legal Education requirements.

31 (e) A provisional licenseholder shall be subject to the same
32 duties, responsibilities, and obligations as fully licensed members
33 of the State Bar of California and shall be conferred the same
34 rights and benefits as fully licensed members of the State Bar of
35 California subject to the following:

36 (1) A provisional licenseholder may not advertise, hold out to
37 the public, or otherwise represent that he or she is admitted or
38 licensed to practice law in California unless the provisional
39 licenseholder concurrently states that he or she is admitted to
40 practice in California under a provisional license only.

1 (2) A provisional licenseholder shall state in all written fee
2 agreements and other contracts for legal services that he or she
3 is admitted to practice in California under a provisional license
4 only.

5 (3) A provisional licenseholder may practice law in California
6 only under the supervision of an attorney who is an active member
7 in good standing of the State Bar of California.

8 (f) A provisional license shall automatically and immediately
9 terminate upon the earliest of any of the following:

10 (1) Failure of the applicant or provisional licenseholder to apply
11 for, take, and pass the general bar examination or Attorneys'
12 Examination as required under subdivision (c).

13 (2) A change resulting in the active duty member of the Armed
14 Forces no longer being assigned to a duty station in California
15 under official active duty military orders.

16 (3) Divorce, dissolution, or legal termination of the marriage,
17 domestic partnership, or other legal union with the active duty
18 member of the Armed Forces of the United States who is assigned
19 to a duty station in California under official active duty military
20 orders.

21 (g) A provisional license shall automatically be superseded and
22 immediately terminate upon the issuance of a full license to
23 practice law in California to the provisional licenseholder.

24 ~~(e)~~

25 (h) To be certified to the Supreme Court for admission, and a
26 license to practice law, a person who has been admitted to practice
27 law in a jurisdiction other than in a sister state, United States
28 jurisdiction, possession, or territory shall:

29 (1) Be at least 18 years of age.

30 (2) Be of good moral character.

31 (3) Have passed the general bar examination given by the
32 examining committee.

33 (4) Have passed an examination in professional responsibility
34 or legal ethics as the examining committee may prescribe.

35 ~~(d)~~

36 (i) The amendments to this section made at the 1997–98 Regular
37 Session of the Legislature shall be applicable on and after January

- 1 1, 1997, and do not constitute a change in, but are declaratory of,
- 2 existing law.

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